

Attendance

Council Members: Paul Junio (Chair), George Bowman (Vice Chair), Randy Herwig, Kurt Knuth, and Jim Kinscher

DNR Staff: David Webb, Greg Pils, Rick Mealy

Others in Attendance: R.T. Krueger

Summary and Action Items

At this meeting the Certification Standards Review Council:

- approved the minutes from their November 16, 2004 meeting
- voted to retain current officers for another year
- were updated on LabCert Audit performance
- were updated on the potential E. coli standards
- were informed about a recent memo from the EPA regarding Discrete Analyzers
- were updated on NR 149 changes
- reviewed and approved the FY 2006 LabCert program budget
- agreed to allocate as much as \$20,000 in the LabCert budget for training
- tentatively scheduled the Council's next meeting for Thursday, May 19, 2005.

Agenda Items**I. Check in/Agenda Repair**

A. No changes were made to the agenda.

II. Approval of Previous Meeting's Minutes

A. The draft minutes from the Council's November 16, 2004, meeting were approved unanimously (Bowman/Kinscher).

III. Election of Officers

A. The Council voted unanimously (Herwig/Knuth) to retain the current officers: President - Paul Junio, Vice President - George Bowman, Secretary - Marcia Kuehl.

IV. Audit Status – Quarterly Update

A. Greg Pils provided the council with a summary of the Laboratory Certification Program's audits, reports, and audit closures for the second quarter (to-date) of Fiscal Year 2005. The FY 2005 tallies appear in the tables on the following page. Pils noted that the Program is just slightly off pace at the halfway mark, but expressed with certainty his belief that the goals would be attained.

Pils reminded the Council that the LabCert Program has established a goal to audit each laboratory once every 3.5 years. For the Central Office facilities, Pils noted that –with the exception of Xcel Energy (Due October 2001) —the program is caught up. As for the regional portion of the program, with the exception of the two facilities topping the list (Milwaukee Waterworks-Howard Avenue, Wausaukee WWTP, this side of the Program is also caught up.

B. George Bowman noted that there were several regional facilities with open cases that are quite old. Dave Webb agreed with the observation but mentioned that, since the holidays, he has been working with the auditors to resolve this. He further noted that it was his belief that none of the open cases have particular issues of concern.

Paul Junio asked a general audit question regarding out-of-state audits, "Even though we've had to report results down to the LOD since 1997, every time I speak with another (out-of-state) lab, that requirement seems to come as a surprise. Is that an issue for auditors?" Pils replied that it is the most common deficiency he encounters with out-of-state labs.

Cumulative Totals

Central Office			Regional		
Total*		Annual Goals	Total*		Annual Goals
Audits	20	44	Audits	55	106
Reports	24	44	Reports	57	106
Closures	31	44	Closures	60	106

Quarterly Totals

1 st Quarter		2 nd Quarter*		3 rd Quarter		4 th Quarter	
CENTRAL OFFICE							
Audits	6	Audits	11	Audits	3	Audits	
Reports	9	Reports	9	Reports	6	Reports	
Closures	17	Closures	11	Closures	3	Closures	
REGIONAL							
Audits	26	Audits	22	Audits	7	Audits	
Reports	26	Reports	23	Reports	8	Reports	
Closures	23	Closures	26	Closures	11	Closures	

Total Labs by Responsibility

CO (Central Office)	128	311 Labs
NE (Northeast Region)	69	
WC (West Central Region)	88	
SC (South Central Region)	74	
SE (Southeast Region)	80	
O (Other/Reciprocity Labs)	10Labs certified via reciprocal agreement – not audited by WI LabCert

- C. R.T. Krueger asked the Council if they had any comments on “really old Central Office audits”? Open cases mentioned included, Advance Waste, SPL – Michigan, and Commercial Testing Laboratories (CTL).

Pils addressed the Advanced Waste situation, explaining that this facility’s work really does not fall under the certification Program. Basically, we require them to be certified, but they do not perform any testing that falls under one of the covered programs.

Post-meeting note: The SPL and CTL open cases were performed by Rick Mealy, who assumed the Program Chemist role during August 2003. No significant certification issues were identified in either audit.

V. Bacteria TAC Update

- A. Greg Pils reported that since the last council meeting, the DNR’s Toni Glymph has given a presentation at a Regional conference. Essentially, the federal standards have changed, and now E. coli standards are being

promulgated at the federal level for the Great Lakes region. This is all related to the BEACH Act. The limits being imposed are not necessarily compliance limits, but instead trigger health advisories. Also, the federal standards only apply to recreational waters. Unfortunately, in Wisconsin, all waters are classed as “Recreational”.

The federal program establishes 4 levels of standards:

- 235 organisms per 100 mL – for beaches and recreational use waters
- 298 organisms per 100 mL – for “moderate use” waters
- 4095 organisms per 100 mL – for “light use” waters
- 235 organisms per 100 mL – for beaches and recreational use waters

We could simply implement this stratification, but it would be sending a message that, “if you want to swim, head for the Great Lakes-- because inland, anything goes”

There are exemptions if one can prove that the microbial counts are not due to human sources and that there is no health risk.

- B.** George Bowman asked how this all fit in with the wastewater program. Pils answered that they are looking at effluents now. It needs to be controlled at the source via permitting, but there are no approved methods for *E. coli*, and no guidance for what is equivalent.

R.T. Krueger expressed concern as one of the laboratories that invested considerable money to purchase state-of-the-art testing equipment. His specific issue is that these decisions are left up to the Technical Advisory Committee (TAC), who may not have any expertise on the analytical side. George Bowman mentioned that both John Standridge (retired Supervisor of Microbiology at the State Lab) and Toni Glymph are members of the TAC, and both are aware of and favor the Quantitray method.

- C.** Pils summarized the status of the issue as being currently focused on municipal effluents. There is also some discussion about whether or not *E. coli* is the best indicator organism. Finally the different categories of water have to be addressed. No timeline has been established, but there are many unresolved issues requiring negotiation between the DNR and the EPA.
- D.** Paul Junio asked how often the TAC meets. Pils indicated that the TAC last met in November 2004 and have not met since. It is difficult to meet when there is not clear direction (from federal rules and EPA, not the WT program at WDNR) regarding which form of rule with which to proceed. However, a meeting is slated for the end of February 2005. Pils indicated that he would determine the actual meeting date and pass it on to Council members.
- E.** Dave Webb stated that Toni (Glymph) is doing what is best for the state, municipalities, and industrial facilities. He noted that she was in a difficult position when the agency, region, and EPA headquarters are not all on the same page. RT Krueger, noting that with the spring will come many questions, asked if Toni is the appropriate contact person. Pils indicated that Ms. Glymph, is indeed the best person to contact, especially considering the amount of mis-information out there. Webb suggested that, if the Council is interested, we could arrange to have her available at the next (May 2005) LabCert Council meeting. Junio agreed that that would be an excellent idea.

VI. EPA position on Discrete Analyzers

- A.** Rick Mealy read the January 28, 2005 e-mail received from Pat Churilla, EPA Region V Certification Coordinator, regarding Discrete Analyzers. In apparent contradiction to other documents received previously, this e-mail stated that Discrete Analyzers are conditionally approved for use under the Clean Water Act (CWA), but are not approved for use under the Safe Drinking Water Act (SDWA). Attached to Mr. Churilla’s e-mail was an electronic copy of a Memorandum from the Director of the EPA’s Office of Science and Technology, entitled “Guidance on the Use of Discrete Analyzers under the Clean Water Act Programs”.
- B.** The Guidance document itself raised a number of questions, most notable in that its definition of “discrete analyzer” could easily extend to such recognized technologies as Lachat’s Flow Injection automated analyzer (FIA), Alpkem’s FIA system, and older Technicon Autoanalyzers. In addition, nowhere, other than Mr. Churilla’s e-mail message, is there mention of any exclusion related to SDWA.
- C.** R.T. Krueger indicated his intent to continue using the Discrete Analyzer system for which he paid \$60,000 and which he currently uses based on memo and e-mail approvals received from LabCert staff and on EPA approval letters he was provided by the manufacturer of his analyzer (Westco). Paul Junio asked if we could issue a

variance allowing the use of Discrete Analyzers. Pils responded that he didn't think we could issue a variance from a federal requirement. Mealy suggested that it was possible that Mr. Churilla mis-interpreted the guidance and that we should contact him officially as a program. Webb suggested that the DNR, including such personnel as Dwayne Schuetteltz, Drinking Water section folks, and either Joe Renville, or Robin Nyfler) may need to contact Churilla.

- D. Pils asked Mr. Krueger to provide the program with the EPA approval letters that he'd previously obtained from Westco and recommended that the LabCert Program
 - talk to Pat Churilla; obtain clarification for the prohibition from SDWA and the reasons for it, then
 - convene and decide on a stance for the program
- E. Council members indicated their desire that these minutes reflect the Council's desire for the LabCert Program to pursue this issue.

VII. NR 149 Revision

- A. Dave Webb announced that he has a final draft of NR 149 that, in the authors' opinions reconciles internal and external concerns. Webb further indicated that he had two meetings with DNR senior management regarding the level of their support to seek public hearing before the Natural Resources Board (NRB) or to continue working on the rule. Senior management has decided that the rule should be brought to the NRB for public comment. Webb thinks that this will occur within about 3-5 months, which is about as soon as possible given the administrative rule process.
- B. Within 2 weeks, Webb indicated that the draft and peripheral materials (complement to existing materials, peripheral aids, fee "cheat sheet") would be sent to the RAC with a message that this is the package intended to be brought before the NRB. The RAC can comment as they see fit, but we are bound to go before the board at this point. A small business analysis will also be required.
- C. The plan then is to prepare a "yellow sheet" package, announcing intent to go before the NRB in May or June. The final draft, in Webb's estimation, is not a great deal different from the version seen previously. There was a fair amount of structural changes, such as condensing the Corrective Action section to a single type, rather than splitting out "General" vs. "Technical" corrective action. The draft cannot be sent out from RAC members to their constituencies until the NRB issues authorization to go to hearing. Webb acknowledged that the Municipal Environment Group (MEG) is not fully in support of the rule but the RAC is.
- D. R.T. Krueger asked for more detail regarding MEG's lack of support. He asked if we could earn MEG's support once the package is out for public comment. Webb responded by noting that there will be a 90-day comment period at the end of which LabCert will be required to prepare a formal response to comments and a final "green sheet" package
- E. Paul Junio asked that if the RAC reaches consensus agreement with the rule, will that outweigh the position of one RAC member speaking out in opposition? George Bowman clarified that the RAC supported the general content of the proposed rule...until the RAC sees the final draft, it can't be stated that the RAC is unanimously supportive. Paul Junio countered that the RAC does not have to provide unanimous support; it need only have a consensus in support, Junio indicated that he is working on a few ideas to demonstrate support.

VIII. Staffing Changes

- A. Dave Webb announced Don Domencich will end his long tenure with the Program as of July 1 (2005). This will leave the Program without any LTEs. As a result of Don's leaving, everyone's "audit territory" will change. There has been a steady reduction in number of labs, and a number of internal workload issues. Both Brenda Howald and Camille Johnson have been switched from ½ FTE to full FTE status. John Condrón's territory will move further up the Lake Michigan coastline. The northern half of the Northeast Region regional labs will now be covered by Central Office staff. Camille and Brenda will each be auditing some of the Central Office labs.

IX. FY 2006 Budget and Proposed Certification Fee Adjustment

- A. Greg Pils opened by stating that Salary and Fringe Benefit costs for FY06 will be lower than in the past due to the absence of any LTE allocation. We are unsure of what our spending authority is as the Governor is only presenting his budget this evening; however we anticipate a significant increase. What is unresolved at this time is actual salary dollars since the state and the Wisconsin Science Professionals union (WSP) haven't even begun negotiation on the next 2-year contract (the current WSP contract expires June 30, 2005). The budget includes a

2% increase in salary. If we do not get such a raise, then the money collected will roll over into next year and we won't collect that much from fees.

Pils noted that other items that have changed are the cost of doing business. The big additional line item is \$11,000 for rent. This figure comes from a preliminary plan for funding agency rent costs that has yet to be approved and may not even materialize. M&B recommended that we include the figure in the FY06 budget, but not collect fee revenue to fund it. In the event that we do have to pay this or some other adjusted rent figure in FY06, we will have sufficient reserves to cover it without having to collect additional fee revenue.

In past years, the DNR has paid all rent out CAER; now every program must chip in. Our portion is \$11,000. This is a NEW cost. Pils also noted that the BEITA [information systems] support charge is assessed on a per PC basis.

- B. The total budget, before any Training allotment, is \$563,100, which is just about \$11,000 more than last year (\$552K). This demonstrates that we are doing an excellent job of holding the line on expenses. The cost per RVU is then determined by subtracting Out-of-state travel reimbursements from the Total Budget and dividing by the total number of RVUs. Once we obtain the \$/RVU figure, the fee structure is built based on RVUs per category.
- C. Going back to FY03, we have consistently lost a few more labs and had labs drop more of their tests, so there are a few less RVU over which the Program Budget can be spread. This year we lost 8 labs but gained two Drinking Water labs. The total number of labs is at 455, down from the high of over 600 in the early 90's. The level of staffing, however, is well balanced for the number of labs out there.
- D. Leading into the discussion on allocating money in the budget for Training, Pils indicated that cost of training would amount to about an additional \$0.50 per RVU per \$5000 allocated. For every \$5000 allocated for training, this would mean an increase in fees of approximately \$7.00 for a small wastewater lab and \$29.50 for a commercial lab.

X. FY 2006 Training: Funding Levels and Content

- A. Pils initiated the discussion by stating the two principal goals: (1) We need a decision whether or not to fund training out of LabCert fees. (2) If the decision is to fund training, how much (\$\$) do we allocate in the budget?
- B. George Bowman suggested that there was no reason why we couldn't bring in partners as needed, citing the ICP training offered in 2003 that included assistance from DNR, SLH, and WELA (Wisconsin Environmental Lab Association). Bowman added that a follow-up ICP session is in the works.
- C. Dave Webb stated that his desire is to have some structure to these training decisions...whether they involve just the LabCert staff or LabCert staff and the Council. He's less concerned about the "hows"—preferring to start small, have a guaranteed success and then build upon it.
- D. Randy Herwig asked—for conversation sake—what allocating \$20,000 would cover. Would that mean just the development or development and actually putting on the training. R.T. Krueger responded that not all of these sessions need to be “dog and pony” shows. In some cases it need only be the development of training materials and guidance. If you [LabCert] have lower priority items and a year when some time is available, use the funds to create the needed guidance materials.
- E. Webb suggested paying the State Lab of Hygiene to prepare hard copy guidance on laboratory “basics” (e.g., proper use of glassware). He suggested we guess at what that might cost and use that figure in the budget. Paul Junio stated his belief that it is important to have money budgeted without having to explain the purpose for it each year. He added that there will always be the next “*E. coli*” that will require training support.
- F. After much discussion, Pils re-focused the group by asking for a figure to include in the budget. Randy Herwig commented that whatever figure we decide upon could always be cut by the NRB (Natural Resources Board). He therefore suggested budgeting the full \$20,000 ceiling which had been discussed previously.
- G. Webb indicated that his thoughts were to allocate \$10-15K—basically the equivalent of hiring an LTE for six (6) months. Pils emphasized that if the council really wants to demonstrate support, a letter from Paul Junio, representing both the Lab Cert Council and (as president) WELA would be in order.
- H. Pils wrapped up the discussion by summarizing that the Council is in support of a training allocation in the budget of up to \$20,000.

- I. The Council voted unanimously to recommend the Natural Resources Board to approve the FY2006 LabCert budget and fee package.

XI. Other Program and DNR Business

- A. Rule Changes - Webb indicated that a small fix to NRs 149, 219, and 106 just got completed. Therefore there will be new versions of these rules published sometime this summer. The effective date will likely be sometime in July (6 months after the January NRB meeting). The change to NR 149 was to replace the WET testing manual with the second edition.
- B. Lab of the Year - Pils announced that Sparta Wastewater Treatment has won the 2005 Large Lab of the Year award. The 2005 award for a small facility goes to the Middle River Health Facility.
- C. Variances – Pils announced that one variance has been granted recently. The Milwaukee Metropolitan Sewerage District was issued a variance relieving them of the requirement to analyze a PT sample for potassium under category 08. As a result of an on-site evaluation, it was determined that the only potassium testing done by the lab is on biosolids, and the levels typically found in PT samples in no way relate to the levels found in biosolids. Junio commented that this was a smart variance.

XII. Council Member Issues

- A. PT Providers– Paul Junio inquired as to whether any of the Wisconsin approved PT providers had lost any of their certifications recently. Learning that none had, Junio indicated that a rumor to this effect had been circulating recently.

XIII. Future Meeting Date

- A. The next Council meeting was tentatively scheduled for Thursday, May 19, 2005. The meeting was tentatively scheduled to be held at the State Laboratory of Hygiene. Webb and Pils will attempt to arrange for Toni Glymph to address the Council at this meeting regarding E. coli testing.